

R E M A R K S

Claims 1-22 are currently pending in the present application. In the instant Office Action, the Examiner raised a number of issues which are set forth by number in the order they are herein addressed:

- 1) Specification is objected to for not containing an abstract as required by 37 CFR 1.72(b);
- 2) Claims 1-22 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite; and
- 3) Claims 1-22 stand rejected under 35 U.S.C. §103(a), as allegedly unpatentable over Buzga *et al.* (US 4,073,661) in combination with Stark *et al.* (EP 056 437).

Applicants hereby amend Claims 1-4, 6, 9-12, 14-16, 18-22, in order to further the prosecution of the present application and Applicants' business interests, yet without acquiescing to the Examiner's arguments. Applicants reserve the right to prosecute the original, similar, or broader claims in one or more future application(s). These amendments do not introduce new matter and are not intended to narrow the scope of any of the claims within the meaning of *Festo*.¹

1) An Abstract Is Provided

The Examiner has indicated that the instant Application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b), and that an abstract on a separate sheet is required (Office Action, page 2). Applicants must respectfully disagree. Applicants remind the Examiner that an abstract was provided on the cover page of the priority application WO 00/76681, provided to the office on December 13, 2001. Nonetheless, Applicants have amended the Specification to contain this same abstract on a separate page following the claims.

¹ *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 535 U.S. 722, 122 S.Ct. 1831, 1838, 62 USPQ2d 1705, 1710 (2002).

2) The Claims Are Definite

The Examiner has rejected Claims 1-22 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention (Office Action, pages 2 and 3). Applicants must respectfully disagree. Nonetheless, Applicants have amended Claims 1-4, 6, 9-12, 14-16, 18-22, in order to further the prosecution of the present application and Applicants' business interests, yet without acquiescing to the Examiner's arguments, and while reserving the right to prosecute the original, similar, or broader claims in one or more future application(s). The amendments, which are supported by the original description, simply correct obvious errors,² or rephrase existing matter.³

In particular, Applicants have amended Claim 1 to recite "a quantity of scales over a varying time, said plant comprising...at least one rotating stirrer having a varying rotation speed...wherein said plant comprises means for continuously varying." Support for this amendment is found in the Specification, as well as in the text of original Claims 3 and 4.

Applicants have amended Claim 2 to recite "wherein said electric motor driving said rotating stirrer draws a current." Support for this amendment is found in the Modes for Carrying Out the Invention which discloses "measuring the instantaneous current drawn by the motor 3 driving the stirrer 2" (Specification, at page 7, lines 9 and 10). In addition, Claim 3 was amended to depend upon Claim 2, and Claim 4 was amended to depend upon Claim 3.

Claim 6 was amended to recite "means for circulating a heating fluid in said gap." Claims 9 and 10 were amended to recite simply "control temperature" and "monitoring pH," respectively. Claim 11 was amended to recite simply "adding one or more chemical products to said washing fluid." Claim 12 was amended to depend upon Claim 9, and to recite simply "wherein said heating fluid consists of high temperature steam."

Moreover, Applicants have amended Claim 14 to recite "the continuous washing of plastic material in a quantity of scales over varying time, said method comprising providing: i) means for feeding and withdrawing...at least one rotating stirrer having a varying rotation speed...and, ii) means for varying the time." Claim 15 has been amended to recite "further

² MPEP 2163.07 II, citing *In re Oda*, 443 F.2d 1200, 170 USPQ 260 (CCPA 1971).

³ MPEP 2163.07 I, citing *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973).

comprising varying the time said scales remain in said apparatus." Claim 16 has been amended to recite "further comprising varying the speed of rotation of said stirrer." Support for these amendments is found in the text of original Claims 3 and 4, and in the Summary which discloses a "means for varying the time," a "device for feeding the scales," "a device for withdrawing the scales," and that "the speed of rotation of the stirrer to be varied as a function of the quantity of scales present" (Specification, at page 3, lines 12-25).

Claim 18 has been amended to recite "further comprising purifying said washing fluid." In addition, Claims 19 and 20 have been amended to recite "further comprising controlling temperature" and "further comprising controlling pH," respectively. Similarly, Claim 21 has been amended to recite "further comprising readmitting at least one fraction." Lastly, the phrase "at that same moment" has been deleted from Claims 1, 14, and 22.

Applicants assert that the amended claims are definite and respectfully request that this rejection be withdrawn.

3) The Claims Are Nonobvious over Buzga *et al.* in view of Stark *et al.*

The Examiner has rejected Claims 1-22 under U.S.C. §103(a), as allegedly being unpatentable over Buzga *et al.* ('661) in view of Stark *et al.* ('437). The Examiner states:

"Buzga *et al.* teach a continuous process for cleaning comminuted plastic material. Buzga teach the washing apparatus equipped with rotating stirrer and containing a washing fluid, filtering unit, means for feeding said comminuted plastic material, means for withdrawing said comminuted plastic material, and a plurality of conduits as claimed. See the abstract, Figs 1-3, col 2, lines 39-43, col. 3, line 24-col. 6, line 62, col. 7, line 25-col. 10, lines 28, and claim 1. Buzga *et al.* also teach that the necessary time at which comminuted particles have to remain in the washing zone is determined by the degree of soiling of the comminuted particles and the speed at which soluble foreign particles clinging to the comminuted plastic particles may be dissolved in the washing solution. The reference also teaches that by adjusting the number of revolutions per minute of the shaft, the time at which the comminuted particles remain in the washing solution and the rate of travel of the comminuted particles through the container may thus be adjusted in any desired manner. See col. 5, lines 41-62, The reference also teaches the washing process as claimed. See the document in general.

Buzga *et al.* teach all limitation[s] with the exception of means and step of continuously varying the time the scales remain in the washing apparatus as a function of the quantity of scales contained at the same moment in said apparatus as claimed.

EP discloses a washing apparatus. The reference teaches that it is suggested to vary the washing time in accordance with the amount of material to be washed in the apparatus. See the second paragraph on page one.

It would have been obvious for one skilled in the art at the time applicants invented the claimed invention to use the step and means for varying the time said material remain[s] in said washing apparatus taught by EP in the Buzga apparatus and process to obtain the claimed invention. This is because Buzga *et al.* teach that the time at which the comminuted particles will remain in the washing solution may be adjusted in any desired manner" (Office Action, pages 3-5).

Applicants must respectfully disagree. The Examiner is reminded that a *prima facie* case of obviousness requires: some suggestion or motivation (in either the references themselves or in the knowledge of one of ordinary skill in the art) to combine the reference teachings; a reasonable expectation of success; and a teaching or suggestion of all claim limitations.⁴ Applicants respectfully submit the Examiner has failed to establish two of the three elements of a *prima facie* case of obviousness. In addressing this rejection, Applicants largely focus on independent Claims 1, and 14, since non-obviousness of an independent claim necessarily leads to non-obviousness of claims dependent therefrom. Applicants respectfully point out that the claimed invention is directed to plants and methods for the continuous washing of plastic material in a quantity of scales comprising "means for continuously varying the time said scales remain in said washing apparatus as a function of the quantity of scales contained in said washing apparatus." In addition, Claims 1 and 18 further recite the limitations of "one filter unit connected to said apparatus for purifying said washing fluid," and "purifying said washing fluid by means of a filtering unit," respectively.

(a) No Suggestion or Motivation to Combine the References

The Examiner is also reminded that the mere fact that the references can be combined does not render the resultant modification obvious, unless the prior art also suggests the desirability of the modification.⁵ Buzga is concerned with **continuous washing** as a function of "the speed at which the soluble foreign particles are dissolved in the washing solution" (See, '661, abstract and column 2, lines 41-43). In contrast, Stark is concerned with **batch**

⁴ MPEP, 2143.

⁵ See, *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

washing as a function of a load state (*See*, '437, abstract). As indicated in the International Preliminary Examination Report (attached herein as Tab 1) of the priory application, the "skilled person working with the rather large scale continuous working equipment of [Buzga] would not see the possible use of the batch operating [Stark] concept in the continuous washing apparatus of [Buzga]."⁶ Thus, one skilled in the art would not have the requisite motivation to combine the references.

(b) All Claim Limitations are neither Taught nor Suggested

The Examiner is also reminded that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art."⁷ As discussed above, Claims 1 and 14 are directed to the "**continuous washing** of plastic material" and require "means for varying the time said scales remain in said washing apparatus as a function of the **quantity of scales** contained in said washing apparatus." In addition, Claims 1 and 18 require "one filter unit connected to said apparatus for purifying said washing fluid," and "purifying said washing fluid by means of a filtering unit," respectively. In contrast to the Examiner's assertion, Buzga does not teach use of a filter unit. Moreover, the grate (40) and sieve (45) of Buzga cannot reasonably be construed to constitute the claimed filter as neither the grate nor the sieve are used to purify the washing fluid. Specifically Buzga teaches "a grate at which the turbulence maintained in the washing zone is broken" (*See*, '661, column 5, lines 66 and 67), and "particles passing upwardly along the inclined sieve are sprayed with fresh water, which passes through the sieve into the trough to be returned into the container to thus compensate for the loss of washing solution" (*See*, '661, column 6, lines 42-46). Similarly, Applicants take the Examiner's failure to indicate that the German Patent of Stark discloses a filter for purifying the washing solution, as evidence that Stark apparently also lacks the claimed filter element.

Moreover, Claims 3 and 15 require that the time the scales remain in the washing apparatus is varied by acting on the devices for feeding and withdrawing the scales. In contrast, Buzga teach that the time the scales remain in the washing fluid is "determined by

⁶ International Preliminary Examination Report of Application PCT/IT99/00173, Section V.

⁷ *See, In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

the degree of soiling ... [and the] speed of dissolving such dissolvable particles can be increased by subjecting the washing solution to sound waves" (*See*, '661, column 5, lines 48-54). Similarly, the German Patent of Stark directed to apparatuses for batch washing apparently varies the operating program on the basis of load state as opposed to varying the load state for a desired operating program (*See*, '437, abstract).

As several differences between the claimed invention and the teachings of Buzga and Stark have been enumerated above, additional differences between the dependent claims have not been discussed at this time. Even so, as a *prima facie* case of obviousness has not been established, Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

Applicants respectfully request that a timely Notice of Allowance be issued in this case. However, should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicants encourages the Examiner to call the undersigned collect.

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